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Treasury, IRS Issue Regulations on Requirements for Disclosing Reportable Transactions and Maintaining Lists

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WASHINGTON — The Treasury Department and the Internal Revenue Service today issued updated regulations reflecting changes to the requirements for disclosure of reportable transactions by taxpayers and material advisors and reflecting changes to the requirements for list maintenance by material advisors made by the American Jobs Creation Act of 2004.

The American Jobs Creation Act enacted updated rules requiring material advisors to file returns disclosing reportable transactions and to maintain investor lists. The Act also updated the penalties that can be imposed on material advisors who fail to comply with these obligations. The Treasury Department and the Internal Revenue Service previously issued interim guidance on these updated rules and on the parallel set of rules regarding taxpayer disclosure of reportable transactions. In drafting the new regulations, consideration was given to comments received in response to the interim guidance.

With one limited exception, the new regulations have been issued in proposed form to permit taxpayers and material advisors to comment on them before they become effective. In removing the book-tax difference category of reportable transactions and adding a new category for “transactions of interest,” the new regulations reflect the flexibility of the reportable transaction rules. The Treasury Department and the Internal Revenue Service request comments on the proposed regulations. In particular, comments are requested on how the regulations can be targeted to capture useful information about potentially abusive transactions while minimizing the burden imposed on taxpayers and material advisors.

“These regulations reflect our continued interest in transparency and disclosure of reportable transactions," said IRS Commissioner Mark W. Everson. "We are continuing to use all the tools at our disposal to prevent abusive tax avoidance transactions, ensuring that we receive timely information on potentially abusive transactions while not imposing an undue burden on taxpayers and their advisors.”

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